

INDIAN AFFAIRS

The Bureau of Indian Affairs (BIA) is the primary agency of the Federal Government charged with the responsibility to administer federal Indian policy and to discharge the federal trust responsibility for American Indian tribes, Alaska native villages and tribal organizations. Federal Indian policy and the trust responsibility are derived from the special legal and political relationship between the tribes and the Federal government. From Maine to Florida and from Rhode Island to Alaska, there are more than 550 federally recognized American Indian and Alaska Native Tribal governments in the United States. While the tribes are as different as the lands they occupy, each retains inherent governmental authority derived from their original sovereignty.

Today, the BIA provides services directly, or through Self-Determination contract, grant and compact agreements with tribes, to more than 1.2 million American Indians and Alaska Natives in 31 states. The scope of BIA programs is extensive and covers virtually the entire range of state and local government services including:

- elementary, secondary and post-secondary education;
- social services;
- law enforcement;
- judicial courts;
- business loans;
- land and heirship records;
- tribal government support;
- forestry, agriculture and range lands development
- water resources;
- fish, wildlife and parks;
- roads and housing;
- adult and juvenile detention facilities; and
- irrigation and power systems.

More important, BIA's programs are funded and operated in a highly decentralized manner with more than 90 percent of all appropriations expended at the local level with an increasing amount operated by tribes and tribal organizations under contracts or self-governance compacts. In addition, the BIA administers more than 43 million acres of tribally-owned land, over 11 million

BIA Mission

"To fulfill trust responsibilities and promote self-determination on behalf of Tribal Governments, American Indians, and Alaska natives."

acres of individually owned land held in trust status and 443,000 acres of Federally-owned land.

The BIA's most basic responsibilities are fulfilling its trust obligations and facilitating tribal self-determination. However, while the protection of trust resources is a fundamental responsibility, tribal communities struggling to meet the basic needs of their communities must compete for the same limited resources the BIA uses to protect trust resources. The BIA's success relies on judiciously balancing these competing mandates.

Indian Self-Determination and Self-Governance

A primary objective of the BIA is to support the sovereignty, self-determination, and self-governance of federally-recognized Indian tribes. The Indian Self-Determination and Education Assistance Act of 1974 (Public Law 93-638, as amended) authorizes tribal governments and organizations to operate federal programs under contract, grant, and compact agreements. Under these agreements, tribes deliver program services to their members and have the flexibility to redesign the federal programs to meet their local needs and priorities.

In fiscal year 1997, the BIA obligated \$1.049 billion to tribes and tribal organizations under self-determination contracts, grants, and compacts, accounting for 49.9 percent of all obligations. For the Operation of Indian Programs and Construction accounts, the total obligations under contracts, grants, and compacts have continued to grow to more than \$887 million in fiscal year 1997, and 53 percent of the total obligations.

The number of tribes operating federal programs under self-determination contract or grant agreements has increased significantly over recent years, from an estimated 317 tribes in fiscal year 1991 to 449 tribes today. Recently, a large number of those tribes chose to convert from contract and grant agreements to the more flexible self-governance compact agreements. Over 34 percent of all tribes, including most of the Alaska native villages, have entered into compact agreements.

Tribal Services

The Office of Tribal Services has overall responsibility for the Delegation of Authority Initiative. This initiative delegates authority for the administration of non-construction contracting under the Indian Self-Determination and Education Assistance Act to the lowest level of the Bureau. Presently, there are 50 agencies and two field offices authorized to administer self-determination contracts under a delegation of authority from Area Directors.

Consolidation, strengthening and expansion of existing authorities of the current delegate agencies should occur in the next fiscal year. Few new agencies will be delegated authority for contracting. Under the plan to separate commercial from self-determination contracting, 45 contract office staff will be converted to self-determination specialists to work exclusively with Public Law (P.L.) 93-638 contracts and grants.

Education

Nearly one-third of BIA's annual appropriations in the Operation of Indian Programs account supports Indian education. These funds provide elementary and secondary education and residential programs for Indian students not served by public and sectarian schools, residential care for some Indian students attending public schools, and special services to meet the needs of Indian students in such areas as early childhood develop-

1997 Indian Affairs and Trust Management Highlights

- *Completed and submitted to Congress the Strategic Plan to implement the American Indian Trust Fund Management Reform Act of 1994.*
- *Obligated over \$1 billion to tribes and tribal organizations under self-determination contracts, grants, and compacts accounting for 50 percent of all Bureau of Indian Affairs obligations.*
- *Continued aggressive streamlining and decentralization activities resulting in the elimination of 491 full-time equivalent positions (4.6 percent reduction over 1996 levels)*
- *Increased the number of Tribes covered by flexible self-governance compact agreements from 190 to 202.*
- *Achieved accreditation and met state, regional and or Bureau academic standards for all Bureau-funded day schools and boarding schools.*
- *Resolved issues associated with 60 self-governance agreements covering 202 federally-recognized tribes, and completed negotiations on 64 annual funding agreements that will be executed in FY 1998. These 64 agreements cover 206 Indian tribes.*
- *Worked collaboratively with Indian tribes to develop the Secretary's legislative proposal to establish an alternative dispute resolution process for settling Tribal claims alleging mismanagement of trust funds. The American Indian Trust Fund Management Reform Act of 1994 required the Department to review trust accounts and advise Congress on the steps that will be taken to reconcile balances.*
- *Achieved at least a temporary resolution to a serious internal governance dispute that has plagued the Nation's second largest Indian Tribe, the Cherokee Nation, and that had some potential for violence.*

ment, bilingual education, counseling, and guidance. Johnson-O'Malley Education Assistance Grants provide special education programs for Indian students attending public and private schools.

The BIA operates two post-secondary schools, Haskell Indian Nations University and Southwestern Indian Polytechnic Institute, and provides financial support to 24 Tribally Controlled Community Colleges (TCCCs). Scholarship programs assist Indian students in pursuing undergraduate and graduate degrees at public and private colleges and universities. Adult education programs are also available for high school equivalency diplomas.

Elementary and Secondary Education: About 90 percent of all Indian elementary and high school students attend public or private schools. The remaining 10 percent attend BIA operated or funded schools. During

the 1996-97 school year, the BIA's school operations programs supported 118 day schools, 55 boarding schools and 14 dormitories. These facilities served more than 49,200 students. The BIA directly operated 82 of these facilities and tribes operated the remaining 105 facilities under self-determination grants and contracts. Most school operations funds are allocated by three program formulas: Indian School Equalization Program (ISEP), Student Transportation, and Administrative Cost Grants for the tribally-operated schools. The ISEP supports the basic instructional activities of the schools and the funds are allocated on weighted student units (WSUs). Students are assigned weights which reflect the relative costs of different grade-levels and special education programs.

Since the 1992-93 school year, the BIA schools have had average annual growth rates of about 3 percent in the number of students and 3.7 percent in the number of weighted student units. The annual ISEP allocations have increased an average of about 2.9 percent per student and 2.4 percent per weighted student unit. The ISEP formula program has kept pace with recent increases in service population and has partially covered inflationary cost increases.

In the 1996-97 school year, all of the BIA-funded day schools and boarding schools met state, regional or/and BIA academic standards. State and regional accreditation requirements usually exceed the academic standards that BIA has established as minimum criteria for its funded schools.

Among the BIA's special education programs, the Family and Child Education (FACE) Program has received national and international recognition since it was initiated in 1991. FACE provides educational training to preschool children, their parents, and school staff. More than 1,810 children and 1,400 families participated at 21 school sites during the 1996-97 school year.

Post-Secondary Education: The Haskell Indian Nations University in Lawrence, Kansas, and the Southwestern Indian Polytechnic Institute (SIPI) in Albuquerque, New Mexico, provide a variety of educational opportunities for Indian students at the junior college level to prepare them to enter four-year colleges and universities. Haskell offers students three associate degree programs in Science, Applied Science, and Arts, and one baccalaureate degree program in Elementary Education. SIPI awards associate degrees in Liberal



Haskell Indian Nations University (photo by Teri Peterson).

Arts and Computer Sciences, and is establishing programs in environmental sciences, electronics, and other specialized technologies. These national institutions attract Indian students throughout the United States.

Tribally Controlled Community Colleges (TCCCs) are chartered by tribal governing bodies, governed by local boards of regents, and promote educational goals that are compatible with the needs of the tribe and its members. In fiscal year 1997, there were 24 TCCCs eligible for federal assistance. Most funds are distributed on the number of enrolled students and their credit hours. Some tribes supplement the federal grant for their TCCC with Tribal Priority Allocations funding.

Scholarships: Undergraduate scholarship assistance is provided though funds available in Tribal Priority Allocations. With Tribal Priority Allocations, the tribes set funding priorities for the various programs based on local needs and priorities. The scholarship programs may be administered by BIA's agency or area offices, or operated by the tribes under self-determination contracts, grants, or self-governance compacts. While all Indian students attending accredited post-secondary institutions are eligible to apply, the amount of award is based on each student's certified financial aid requirement such as the Pell Grant and National Direct Student Loan Program.

Adult Education: Tribes also support continuing adult education through the Tribal Priority Allocation program. Tribal members are encouraged to attend courses that prepare individuals for the General Education Development (GED) examination, employment skills such as driver training, typing and computer literacy, and basic skills such as household budgeting and preparing state and Federal tax forms. In fiscal year

1997, the tribes allocated \$2.486 million to support adult education.

Trust Lands and Resources Management

The Bureau's trust lands and resources management programs protect, develop, and enhance the management of over 54 million acres of Indian trust lands, including all ownership interests and rights to surface and subsurface resources, for the benefit of tribes and their members.

Forest Resources Management and the President's Forest Plan: A major responsibility of the BIA is maintaining Indian trust forest lands in a perpetually productive state. The BIA assists tribes and individual Indian forest land owners in managing, developing, and protecting their forest resources through the use of sound ecosystem, silvicultural, and economic principles. These activities provide employment and revenue to the Indian owners.

The BIA is responsible for the presale, contract compliance, and other administrative activities associated with the sale of forest products. During fiscal year 1997, an estimated 650 million board feet of timber with a value of \$130 million was harvested. The application of silvicultural treatments to Indian commercial forests land is necessary to maintain these lands at their full productive level. Forest development activities include preparing sites for reforestation, planting tree seedlings, and maintaining optimal stocking levels (timber stand improvement) to protect forest health. During fiscal year 1997, an estimated 14,116 acres were planted and 66,625 acres were improved.

Long-range forest management planning is essential for maintaining Indian forests in a perpetually productive state while harvesting timber resources to achieve tribal economic development goals. Planning is an ongoing process that responds to changing tribal needs. Ninety-seven Indian reservations require forest management plans. During fiscal year 1997, ten forest management plans were completed and six forest management plans expired. The total number of current plans increased to 75.

BIA participation in the President's Forest Plan has two main components: (1) ecosystem restoration projects and (2) timber harvest initiatives in the Pacific



Wapato irrigation facility (photo by Teri Peterson).

Northwest and Northern California regions. The ecosystem restoration projects improve the quality of fish and riparian habitats in watersheds and streams. During fiscal year 1997, 175 miles of streams were enhanced and 76 jobs were created for displaced forest workers. The harvesting of additional timber from Indian forests increased wood supplies for the domestic and export markets and helped the northwest commercial economy recover from the court ordered restrictions on timber harvests on Federal lands. During fiscal year 1997, Indian tribes received \$50 million from the 100 million board feet of timber that was harvested. Thirty additional jobs were created on or near Indian reservations.

Agricultural and Range Land Management: The BIA provides technical assistance to the tribes and more than 125,000 Indian operators and producers. Indian irrigation and power systems also support the agricultural and rangeland economies. With about 85 percent of Indian trust lands in active production, Indian operators and producers use about 45 percent of the irrigated acreage, 30 percent of the dry farming acreage, and 75 percent of the rangelands. The balances of the producing lands are leased to non-Indian operators and producers with emphasis placed on the further development of Indian agricultural resources.

Mineral Resources Management: The development of mineral resources provides significant income to tribes and individual Indian landowners. The Bureau provides technical assistance and information through geological and economic studies, marketing and training programs for Indian landowners seeking to manage and develop their mineral resources.

The Minerals and Mining program has been especially active in promoting the production of oil, coal, precious metals, granite, gypsum, sand and gravel, and natural gas resources on Indian lands nationwide that have been identified through four phases of mineral assessment studies. Nationwide revenues from mineral royalties, rents, and other revenues on Indian lands increased by 15 percent to over \$166.8 million with sales value of more than \$1.3 billion. The increase was attributed to a significant rise in oil and gas prices during the period that resulted in additional collections. The Bureau administered 3,952 mineral leases, licenses, permits, and applications on 1.9 million acres of Indian lands. This number included 3,754 producing or producible Indian oil and gas leases on 1.7 million acres, six coal leases on 115,630 acres and 45 leases for other minerals on 17,516 acres. In 1997, Indian revenues increased by approximately \$32 million, or 28 percent, which was primarily attributed to higher oil and gas prices and additional bonus collections for competitive lease sales.

Real Estate Services: The Bureau is responsible for the management and administration of more than 43 million acres of tribally owned land and 10 million acres on land owned by individual Indians. Major functions include leasing and permitting, lease compliance, rights of way, land acquisition and disposal, preparation and administration of probates, and land records. These activities provide Indian landowners with essential data and assistance to support the management and development of their surface and subsurface land resources, consistent with the trust management role of the federal government. Trust land leasing activities are a major part of the real estate program and provide a major source of income to owners.

The General Allotment Act of 1887 transferred Indian lands in 40, 80, and 160 acre parcels to individual tribal members and families and opened the remainder of tribal owned lands to non-Indian settlement. Checkerboard patterns of Indian and non-Indian ownership resulted. More than 100 million acres of the Indian trust land base was lost between 1887 and 1934. The enactment of the Indian Reorganization Act of June 18, 1934, stopped further allotment of tribal lands.

As the land allotted to individual Indians passed from generation to generation, ownership often has been divided among an increasing number of heirs. It is common for as many as 100 to 300 individuals to hold undi-



Road construction on Northern Cheyenne Reservation (photo by Teri Peterson).

vided interests in a single allotment. This division of ownership interest is referred to as fractionation. Currently, it is estimated that there are more than one million fractionated interests, with many of these interests at 2 percent or less.

During 1997, Secretary Babbitt submitted a draft bill "to reduce the fractionated ownership of Indian lands..." to the Honorable Albert Gore, Jr., President of the Senate, recommending that the bill be introduced, be referred to the appropriate committee for consideration, and be enacted. In October of 1997, Representative Don Young of Alaska introduced the draft bill as H.R. 2743 which was subsequently referred to the Committee on Resource. This bill is still pending before Congress. If enacted, this bill will reduce further fractionation of ownership in Indian allotments.

Economic Development

The BIA provides financial assistance to American Indian tribes, Native Alaska groups, and individuals for the establishment, acquisition, or expansion of business enterprises on or near American Indian reservations or land held by Alaska Native groups incorporated under the provisions of the Native Claims Settlement Act, as amended. This financial assistance helps tribes, corporations, and individuals to achieve greater economic self-sufficiency in the communities and expand employment opportunities for tribal members and Alaska natives. Financial assistance is made available through the Indian Loan Guaranty Program, Indian Direct Loan Program, Indian Development Grant Program, and management and technical assistance grants, which are authorized by the Indian Financing Act of

1974 (P.L. 93-262), Indian Financing Act Amendments of 1984 (P.L. 98-449), and Indian Financing Act Amendment of 1988 (P.L. 100-442). Although Congress has not appropriated funds for grants and direct loans since fiscal year 1995, the loan guaranty programs remains active.

In fiscal year 1997, the BIA awarded 34 loan guarantees for approximately \$2.6 million to finance Indian business start-ups and expansions, as well as infrastructure development. The BIA's financial assistance leveraged an additional \$17.9 million and created or sustained 295 jobs.

American Indian tribes and Alaska Native Villages received 55 percent of the total capital for farming, clinics, office building, restructuring tribal enterprise loans, and tire recycling loans. Individuals received the remaining 45 percent of total capital for cattle ranching, apartments, restaurants, hotels, service stations, boat charters, and retail shops and services.

Implementing the Government Performance and Results Act

As required by the Government Performance and Results Act, the BIA developed a strategic plan in fiscal year 1997 as a component of the Department of Interior's strategic plan. Based on a number of statutes, court rulings and treaty obligations, the BIA's Strategic Plan defines the Bureau's long-term mission and general goals. Performance goals reflected in the annual performance plan will support these broad goals. The achievement of these annual performance goals will determine the BIA's progress in meeting its mission as set forth in the strategic plan.

Customer Service

The Bureau has made substantial progress in achieving its Customer Service Standards, initially published in September 1994 as part of its Customer Service Plan. Progress is primarily evidenced by the increased number of area-wide consultation meetings and customer service conferences held throughout the year. BIA is using partnerships and reengineering to help meet the customer service standards established in the agency's 1994 Customer Service Plan.

Trust Fund Management

Funds have been held in trust for American Indians by the federal government since 1820. The Office of Indian Affairs (OIA) was made a part of the War Department on March 11, 1824. The OIA operated informally until 1832, when the first Commissioner of Indian Affairs was appointed by Congress. In 1834, during the 23rd Congress, the House of Representatives Committee on Indian Affairs passed legislation to address the management of Indian trust funds. In 1849, the OIA was transferred to the Department of the Interior. The Act of February 12, 1929 authorized the payment of interest on certain funds held in trust by the United States for Indian tribes, and the Act of June 24, 1938 authorized the deposit and investment of Indian monies. In 1947, the Bureau of Indian Affairs was officially established. Since then, the responsibility for the management of Indian trust funds has been determined by a series of treaties, statutes, and court decisions.

Treaties, Laws and Agreements

The responsibility, or trusteeship, for the holding of funds by the United States for the benefit of individual Indians and Indian Tribes was first and most importantly established by treaties. However, it was not until 1820 that the Federal government adopted the policy of holding tribal funds in trust and since 1871, the Congress, acting within the scope of its constitutional powers, controlled and managed Tribal and individual Indian funds through legislation.

There are also agreements involving fund management between the Tribes and the Federal government by which a specific Indian trust fund is established. The holding and management of trust funds has also been a long standing principle of the Federal government.

Designated Trustee

The Secretary of the Interior (the Secretary) is designated as Trustee of funds held by the Federal government for Indian Tribes and individual Indians. The Secretary delegated authority for the management of Indian trust funds to the Assistant Secretary for Indian Affairs. This authority was re-delegated to the BIA and was administered by the BIA's Office of Trust Funds Management.

The Office of the Special Trustee for American Indians (OST) was established, under authority provided by the American Indian Trust Fund Management Reform Act of 1994, to oversee all facets of trust management improvement for the Department. In February 1996, the Office of Trust Funds Management (OTFM) was transferred from the BIA to the OST. The Special Trustee has since redelegated program and administrative authority to the Director, OTFM.

The OTFM manages all trust activities associated with the receipt, accounting, investing, and disbursement of funds for American Indians and Alaska Natives in accordance with public laws, regulations, policies, and procedures. OTFM is working with the Special Trustee to mitigate deficiencies in all processes, and to make the appropriate improvements to the overall administrative activities while providing efficient and timely service to the account holders.

There is a constant value of approximately \$2.9 billion held in over 300,000 Tribal and Individual Indian Monies accounts. There is a cash flow including the daily Overnighter money market in excess of \$75 billion annually. In addition, OTFM provides continuous interface with the Tribal and individual account holder community across the Nation.

Due to numerous General Accounting Office reports, Office of Inspector General audits, Department reports, and Congressional reports, the management of Indian Trust Funds has been and continues to be a highly visible program that will be closely scrutinized during the next few years. The creation of the OST in 1994 was a big step towards improving trust funds management and achieving the major reforms necessary to resolve program deficiencies.

Trust Fund Accounts

Indian Tribes and individual Indians trust funds are primarily derived from judgment awards from claims and proceeds from surface and subsurface leasing such as agriculture, business, timber, minerals, or oil and gas. The major portion of tribal funds consists of judgment awards while individual Indian funds realize receipts primarily from royalties on natural resource depletion, land use agreements, enterprises having a direct relationship to Trust fund resources, per capita payments, and investment income. The composition of Indian trust funds, in terms of the source of funds, has not



Bureau of Indian Affairs agency office (photo by Teri Peterson).

changed significantly since April 1993. With the establishment of the Tribal Economic Recovery Fund, however, the value of the funds and number of the accounts have grown.

Appropriated Account

In fiscal year 1997, OTFM received direct appropriations for operational services. The fiscal year 1997 funds were used for Executive Direction, Program Operations, Support and Improvements, Past Reconciliation and Improvement Initiatives.

The fiscal year 1997 funding for Executive Direction supports staffing for the Office of Special Trustee, funding for the Special Trustee's Advisory Board, and the Intertribal Monitoring Association (ITMA). The Advisory Board advises the Special Trustee on all matters pertaining to trust funds operations and management. The ITMA is a tribal membership organization with a 12 member Board of Directors that provides the Special Trustee and the Department with tribal views on reconciliation of past trust fund activities, and reform initiatives.

Part of the program operations funding provides for service bureau agreements for administrative support services with the Bureau of Indian Affairs, the United States Geological Survey, the Washington Administrative Service Center, the Bureau of Reclamation, and the General Services Administration.

Another part of program operations funds staffing and operating costs for 62 field offices located throughout the United States. These include 11 Area Offices, 50

Agency Offices and one Division of Field Operations Office.

Improvement Initiatives funding included the ongoing IIM Data Clean-up project and a Requirements Analysis/User Needs Assessment which was completed in April 1997. The assessment began in December 1996 to determine the approximate costs associated with the development of a comprehensive automated records system to support the information needs of OTFM. The assessment included development of a comprehensive master trust beneficiary accounting system with a master trust and custody function, including supplementary systems necessary to handle assets such as real estate, oil and gas rights, timber and other land management assets. The Special Trustee's comprehensive Strategic Plan built on this work.

Other ongoing costs are for improvements to the trust funds management programs such as the Annual Lease Trust System, Centralized Custodial Services, and Annual Financial audits.

Government Performance and Results Act

The American Indian Trust Fund Management Reform Act of 1994 directs the OST to consult with Indian Tribes and Indian organizations and to develop a comprehensive strategic plan to reform the trust fund management system. This planning process, by law, is on a separate but parallel track towards developing a results-based strategic plan. The Special Trustee submitted his strategic plan to the Secretary of the Interior and the Congress on April 11, 1997. This plan has identified a mission and goals for improvement and operation of a Trust Fund Management system for the American Indians. It is likely that the Administration and Congressional review and final approval of a strategic plan for trust fund management reform could take another year to complete. As a result, while following the intent of GPRA, OST's compliance with some of the time frames of GPRA may be delayed. Once approved, the OST strategic plan will become part of the strategic plan for the Department.

Customer Service

The Office of Trust Funds Management has offices which provide intensified trust funds management services to field offices, Tribes, and individual account owners. They are responsible for assisting in planning recommending policies and procedures, and governing the management of controlled trust fund accounts. Technical advice and assistance are provided to America Indian Tribes in developing financial plans, as well as developing investment strategies for tribal and individual Indian trust funds.

A new toll-free number to improve customer service is currently being implemented. Currently, 1-888-OST-OTFM (678-6836) is installed and is answered by OTFM's Division of Trust Services in Albuquerque, New Mexico. By the end of the third quarter of fiscal year 1998, account holders will be able to dial the 1-888 number, enter the first three digits of their account number and be connected with the agency that services their account. At any point during the process, the customer will have the capability to connect with Albuquerque.

OTFM staff conducted 65 physical Tribal meetings to discuss investment holdings and/or to provide OmniTrust system training. These visits were mostly on-site at Tribal or Agency offices; however, seven meetings were held with Tribal officials at OTFM's Albuquerque office. Twenty-eight of the Tribes participating in these meetings were from the top 100 Tribes (in terms of dollars) for which OTFM provides service. Additionally, meetings were held with BIA staff members at 19 Agency offices during this period. Numerous daily contacts are made by telephone and telefax, as well as written communication of information to tribes and their independent auditors regarding tribal funds held in trust.